

process will apply our interpretation of the Social Security Act and regulations, but will also state in written determinations or decisions how the claims would have been decided under the circuit standard. Claims not subject to relitigation will continue to be decided under the Acquiescence Ruling in accordance with the circuit standard. So that affected claimants can be readily identified and any subsequent decision of the circuit court or the Supreme Court can be implemented quickly and efficiently, we will maintain a listing of all claimants who receive this notice and will provide them with the relief ordered by the court.

(e) We will rescind as obsolete a Social Security Acquiescence Ruling and apply our interpretation of the Social Security Act or regulations by publishing a notice in the FEDERAL REGISTER when any of the following events occurs:

- (1) The Supreme Court overrules or limits a circuit court holding that was the basis of an Acquiescence Ruling;
- (2) A circuit court overrules or limits itself on an issue that was the basis of an Acquiescence Ruling;
- (3) A Federal law is enacted that removes the basis for the holding in a decision of a circuit court that was the subject of an Acquiescence Ruling; or
- (4) We subsequently clarify, modify or revoke the regulation or ruling that was the subject of circuit court holding that we determined conflicts with our interpretation of the Social Security Act or regulations, or we subsequently publish a new regulation(s) addressing an issue(s) not previously included in our regulations when that issue(s) was the subject of a circuit court holding that conflicted with our interpretation of the Social Security Act or regulations and that holding was not compelled by the statute or Constitution.

[55 FR 1018, Jan. 11, 1990]

#### REOPENING AND REVISING DETERMINATIONS AND DECISIONS

#### **§ 404.987 Reopening and revising determinations and decisions.**

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further re-

view within the stated time period, you lose your right to further review and that determination or decision becomes final. However, a determination or a decision made in your case which is otherwise final and binding may be reopened and revised by us.

(b) *Procedure for reopening and revision.* We may reopen a final determination or decision on our own initiative, or you may ask that a final determination or a decision to which you were a party be reopened. In either instance, if we reopen the determination or decision, we may revise that determination or decision. The conditions under which we may reopen a previous determination or decision, either on our own initiative or at your request, are explained in § 404.988.

[59 FR 8535, Feb. 23, 1994]

#### **§ 404.988 Conditions for reopening.**

A determination, revised determination, decision, or revised decision may be reopened—

- (a) Within 12 months of the date of the notice of the initial determination, for any reason;
- (b) Within four years of the date of the notice of the initial determination if we find good cause, as defined in § 404.989, to reopen the case; or
- (c) At any time if—
  - (1) It was obtained by fraud or similar fault (see § 416.1488(c) of this chapter for factors which we take into account in determining fraud or similar fault);
  - (2) Another person files a claim on the same earnings record and allowance of the claim adversely affects your claim;
  - (3) A person previously determined to be dead, and on whose earnings record your entitlement is based, is later found to be alive;
  - (4) Your claim was denied because you did not prove that a person died, and the death is later established—
    - (i) By a presumption of death under § 404.721(b); or
    - (ii) By location or identification of his or her body;
  - (5) The Railroad Retirement Board has awarded duplicate benefits on the same earnings record;
  - (6) It either—
    - (i) Denies the person on whose earnings record your claim is based